

Applic. No. 10/810,028

Amdt. dated October 18, 2006

Reply to Office action of July 18, 2006

Remarks/Arguments:

Reconsideration of the application is requested.

Claims 1 and 3-22 are now in the application. Claims 1 and 3 have been amended. Claim 2 is being cancelled herewith.

Claims 21 and 22 are being added. Support for claims 21 and 22 can be found on page 12, line 8 to page 13 line 2 of the specification. No new matter has been added.

In the second paragraph on page 3 of the above-identified Office action, claims 1 and 2 have been rejected as being fully anticipated by Quinn (U.S. Patent No. 2,519,790) under 35 U.S.C. § 102.

The rejection has been noted and the claims have been amended in an effort to even more clearly define the invention of the instant application. The claims are patentable for the reasons set forth below. Support for the changes is found on page 12, lines 4-7 of the specification.

Before discussing the prior art in detail, it is believed that a brief review of the invention as claimed, would be helpful.

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Claim 1 calls for, *inter alia*:

a cover assembly surrounding the spherical core, the cover assembly having a corrugated rubber layer, the corrugated rubber layer being slideable on the uninterrupted curved section.

The Quinn reference discloses a massaging apparatus having spherical massaging elements (22). The spherical massaging elements (22) are disposed in a chamber (4).

The reference does not show a cover assembly surrounding the spherical core, the cover assembly having a corrugated rubber layer, the corrugated rubber layer being slideable on the uninterrupted curved section, as recited in claim 1 of the instant application. The Quinn reference discloses spherical massaging elements that are disposed in a chamber. Quinn does not disclose that a cover assembly surrounds a spherical massaging element and that the cover assembly has a corrugated layer that is slideable on an uninterrupted curved section of the spherical massaging element. This is contrary to the invention of the instant application as claimed, in which a cover assembly surrounds the spherical core, the cover assembly has a corrugated rubber layer, the corrugated rubber layer is slideable on the uninterrupted curved section.

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Accordingly, claim 1 is believed to be allowable over Quinn.

The following remarks pertain to new claim 21.

Claim 21 calls for, *inter alia*:

a cover assembly enclosing the spherical core, the cover assembly being sealingly connected to the drive shaft for creating a sealed void between the spherical core and the cover assembly.

The reference does not show a cover assembly enclosing the spherical core, the cover assembly being sealingly connected to the drive shaft for creating a sealed void between the spherical core and the cover assembly, as recited in claim 21 of the instant application. The Quinn reference discloses spherical massaging elements that are disposed in a chamber. Quinn does not disclose that a cover assembly encloses a spherical massaging element and that the cover assembly is sealingly connected to a drive shaft. This is contrary to the invention of the instant application as claimed, in which a cover assembly encloses the spherical core and the cover assembly is sealingly connected to the drive shaft for

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creating a sealed void between the spherical core and the cover assembly.

Accordingly, claim 21 is believed to be allowable over Quinn. Since claim 21 is believed to be allowable, dependent claim 22 is believed to be allowable as well.

In the last paragraph on page 2 of the Office action, claims 8 and 9 have been rejected as being obvious over Quinn (U.S. Patent No. 2,519,790) in view of Nagano (U.S. Patent No. 4,840,085) under 35 U.S.C. § 103. Nagano does not make up for the deficiencies of Quinn. Since claim 1 is believed to be allowable, dependent claims 8 and 9 are believed to be allowable as well.

In the penultimate paragraph on page 3 of the Office action, claims 10-16 have been rejected as being obvious over Quinn (U.S. Patent No. 2,519,790) in view of Vitale (U.S. Patent No. 5,280,906) under 35 U.S.C. § 103. Vitale does not make up for the deficiencies of Quinn. Since claim 1 is believed to be allowable, dependent claims 10-16 are believed to be allowable as well.

It is appreciatively noted from page 4 of the Office action that claims 3-7 would be allowable if rewritten in independent

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form including all of the limitations of the base claim and any intervening claims.

Allowable claim 3 has been amended to include the subject matter of claim 1 and intervening claim 2. Therefore, claim 3 is allowable. Since claim 3 is allowable, dependent claims 4-7 are allowable as well.

It is appreciatively noted from page 4 of the Office action that claims 17-20 are allowed.

It is accordingly believed to be clear that none of the references, whether taken alone or in any combination, either show or suggest the features of claim 1. Claim 1 is, therefore, believed to be patentable over the art and since all of the dependent claims are ultimately dependent on claim 1, they are believed to be patentable as well.

In view of the foregoing, reconsideration and allowance of claims 1, 8, 9, 10-16, and 21-22 are solicited.

In the event the Examiner should still find any of the claims to be unpatentable, counsel respectfully requests a telephone call so that, if possible, patentable language can be worked out.

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If an extension of time for this paper is required, petition
for extension is herewith made.

Enclosed herewith is the fee for two additional independent
claims in the amount of \$200. It is noted that since claim 2
was cancelled, there is no fee enclosed for new claim 22.

Please charge any other fees which might be due with respect
to Sections 1.16 and 1.17 to the Deposit Account of Lerner
Greenberg Stemer LLP, No. 12-1099.

Respectfully submitted,



For Applicant(s)

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